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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-683

13 **JOHN LEE COURTER**
29637 W. Laguna Drive
14 Cathedral City, CA 92234-9403

A C C U S A T I O N

15 **Registered Nurse License No. 492642**

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 31, 1993, the Board of Registered Nursing issued Registered
24 Nurse License Number 492642 to John Lee Courter (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 September 30, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order

1 to fix the degree of discipline or to determine if the conviction is substantially related
2 to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
9 following:

10 (f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the record of
12 the conviction shall be conclusive evidence thereof.

13 10. Section 2765 of the Code states:

14 A plea or verdict of guilty or a conviction following a plea of nolo contendere
15 made to a charge substantially related to the qualifications, functions and duties of a
16 registered nurse is deemed to be a conviction within the meaning of this article. The
17 board may order the license or certificate suspended or revoked, or may decline to
18 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
19 conviction has been affirmed on appeal or when an order granting probation is made
20 suspending the imposition of sentence, irrespective of a subsequent order under the
21 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
22 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
23 guilty, or dismissing the accusation, information or indictment.

24 REGULATORY PROVISIONS

25 11. California Code of Regulations, title 16, section 1444, states:

26 A conviction or act shall be considered to be substantially related to the
27 qualifications, functions or duties of a registered nurse if to a substantial degree it
28 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations
listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section
290 of the Penal Code.

1 12. California Code of Regulations, title 16, section 1445 states:

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3 (b) When considering the suspension or revocation of a license on the grounds
4 that a registered nurse has been convicted of a crime, the board, in evaluating the
5 rehabilitation of such person and his/her eligibility for a license will consider the
6 following criteria:

7 (1) Nature and severity of the act(s) or offense(s).

8 (2) Total criminal record.

9 (3) The time that has elapsed since commission of the act(s) or offense(s).

10 (4) Whether the licensee has complied with any terms of parole, probation,
11 restitution or any other sanctions lawfully imposed against the licensee.

12 (5) If applicable, evidence of expungement proceedings pursuant to Section
13 1203.4 of the Penal Code.

14 (6) Evidence, if any, of rehabilitation submitted by the licensee.

15 COSTS

16 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
20 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
21 included in a stipulated settlement.

22 CAUSE FOR DISCIPLINE

23 **(October 26, 2009 Criminal Conviction for Indecent Exposure on November 26, 2008)**

24 14. Respondent has subjected his license to disciplinary action under sections 490 and
25 2761, subdivision (f) of the Code in that he was convicted of a crime that is substantially related
26 to the qualifications, functions, and duties of a registered nurse. The circumstances are as
27 follows:

28 a. On or about October 26, 2009, in a criminal proceeding entitled *The State of
Texas vs. John Lee Courter*, in Dallas County Criminal Court #6, case number MB08-73292-G,
Respondent was convicted by a jury of violating (Texas) Penal Code section Sec. 21.08, indecent

1 exposure, a Class B misdemeanor.

2 b. As a result of the conviction, on or about October 26, 2009, Respondent was
3 sentenced to serve 120 days in the Dallas County Jail, and granted 15 months community
4 supervision. Respondent was ordered to pay fees and fines, and to comply with probation terms.

5 c. The facts that led to the convictions are that on or about November 26, 2008,
6 Respondent was cited in a Dallas park after he was observed exposing his genitals and
7 masturbating in front of an undercover officer.

8 DISCIPLINARY CONSIDERATIONS

9 15. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant
10 to California Code of Regulations, title 16, section 1445, subdivision (b), Complainant alleges
11 that on or about September 22, 1987, in a prior criminal proceeding entitled *People of the State of*
12 *California v. John Lee Courter*, in Los Angeles County Municipal Court, case number
13 87M03184, Respondent was convicted on his plea of nolo contendere to violating Penal Code
14 section 647, subdivision (a), engaging in lewd conduct, a misdemeanor. As a result of the
15 conviction, Respondent was granted two years probation, and ordered to pay a \$300 fine. On
16 March 11, 1993, the court granted Respondent's petition to dismiss the conviction. Respondent
17 withdrew his plea, the verdict of guilty was set aside, and the matter dismissed under Penal Code
18 section 1203.4.

19 16. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant
20 to California Code of Regulations, title 16, section 1445, subdivision (b), Complainant alleges
21 that on or about October 16, 1989, in a prior criminal proceeding entitled *People of the State of*
22 *California v. John Lee Courter*, in Monterey County Municipal Court, case number 74333,
23 Respondent was convicted on his plea of guilty to violating Penal Code section 484, subdivision
24 (a), petty theft, a misdemeanor. Respondent was granted summary probation for one year, and
25 ordered to pay a \$200 fine.

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 492642, issued to John
5 Lee Courter;

6 2. Ordering John Lee Courter to pay the Board of Registered Nursing the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.
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12 DATED: February 27, 2013

for Janice Ben
13 LOUISE R. BAILEY, M.ED., RN
14 Executive Officer
15 Board of Registered Nursing
16 Department of Consumer Affairs
State of California
Complainant

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